

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

**Request for Review of Decisions of the
Universal Service Administrator by**

Hayes E-Government Resources, Inc.

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SLD Nos. 338600, 352390, 346659

CC Docket No. 02-6

**REQUEST FOR REVIEW OF DECISIONS
OF THE UNIVERSAL SERVICE ADMINISTRATOR BY
HAYES E-GOVERNMENT RESOURCES, INC.**

Administrator's Decisions on Appeal -- Funding Year 2003-2004, Dated November 19, 2003

Billed Entity Number: 167435
471 Application Numbers: 338600, 352390, 346659
Funding Request Numbers: 985813, 991115, 990930

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Dated: January 16, 2004

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Administrator's Decisions on Appeal -- Funding Year 2003-2004, Dated November 19, 2003

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I. INTRODUCTION AND SUMMARY

On November 19, 2003, the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC") issued the above-referenced Decisions on Appeal ("SLD Appeal Decisions").¹ These SLD Appeal Decisions denied in full Hayes E-Government Resources, Inc.'s ("Hayes") August 21, 2003 Letters of Appeal. Hayes had appealed SLD's June 23, 2003 Funding Commitment Decision ("FCD") Letters that denied Applicant Florida Information Resource Network's ("FIRN") request for universal service support funding under

¹ See Attachment 1 (SLD Appeal Decisions).

the Schools and Libraries (“E-rate”) program for Internet access services.² Both the SLD Appeal Decisions and the FCD Letters stated that funding was denied because SLD believed that price was not the primary factor in selecting Hayes as the service provider.

Pursuant to Sections 54.719 and 721 of the Commission’s Rules, 47 C.F.R. §§54.719 and 54.721, and through its undersigned counsel, Hayes requests Federal Communications Commission (“Commission” or “FCC”) review of the SLD Appeal Decisions denying FIRN’s applications for funding. As explained below, SLD’s decision was made in error based on an incorrect assumption and retroactive application of new E-rate policies that directly contradict the rules in effect at the time FIRN conducted its bidding process. Hayes understood at all times during the bidding process that price was a primary factor in FIRN’s selection of a service provider and submitted a bid that presented the most cost-effective solution for FIRN. Indeed, retroactive application of any new primary price requirements would be unfair and unlawful and would not further the intent of the new rules or the purpose of the program. Hayes submits the following information in support of its position that FIRN’s bidding process complied with the FCC’s primary factor rules.

II. FACTUAL BACKGROUND

FIRN is a consortium of schools and libraries administered by the Florida Department of Education (“DOE”). With the assistance of the State Technology Office (“STO”), FIRN solicited bids for unbundled Internet Access Services through a state procurement process called an Invitation to Negotiate (“ITN”). FIRN posted its Forms 470 with SLD on or about November 1, 2002. On December 2, 2002, FIRN received bid proposals from four parties, which included actual prices for the proposed services. FIRN evaluated each bid using a scoring

² See Attachment 2 (FCD Letters).

system that awarded points for various categories.³ Based on this evaluation, Hayes scored the highest. On December 18, 2002, more than 28 days after its Forms 470 had been posted, DOE announced its intent to award the contract to Hayes. Bid protests were due on December 23, 2002, but none were filed. FIRN's contract with Hayes was signed on January 16, 2003. On January 31, 2003, FIRN filed its Forms 471 with SLD.

Because FIRN's Forms 471 were chosen for selective review, SLD requested certain additional information from FIRN and FIRN responded with the requested information on May 7, 2003. The FCD Letters denying FIRN's request for e-rate support were dated June 23, 2003, and denied the request on the basis that price was not the primary factor in selecting Hayes as its service provider. Hayes electronically submitted to SLD Letters of Appeal of the FCD Letters on August 21, 2003. On November 19, 2003, SLD issued its Decisions on Appeal, denying the request again on its belief that price was not the primary factor in FIRN's decision to select Hayes as the service provider for the services. This appeal is timely filed within 60 days of the date SLD issued its Decisions on Appeal.⁴

III. LEGAL STANDARD

Under the E-rate program, eligible entities (hereafter, "Schools") may receive discounts for telecommunications services, Internet access, and internal connections. Schools must comply with certain administrative and competitive bidding requirements in order to receive funds. The FCC's competitive bidding requirements permit Schools "maximum flexibility" to take service quality into account, but require that price be a "primary factor" in selecting a bid.

³ See Attachment 3 (Scoresheets).

⁴ 47 C.F.R. §54.720(c).

At the time FIRN sought bids and selected Hayes to be its service provider, the FCC had issued only one order resolving the merits of an appeal based on whether or not price was a primary factor in selecting the winning bidder. In that 1999 *Tennessee Order*, the FCC found that “[p]rice cannot be properly evaluated without consideration of what is being offered.”⁵ The FCC explained that the paragraph in the *Universal Service Order* requiring price to be the primary factor **must be read as a whole**, emphasizing that the remainder of the paragraph focuses on the concept of cost-effectiveness. Specifically, with respect to Internet access, FCC rules “require schools and libraries [only] to select the most cost-effective supplier of access.”⁶

Although the *Universal Service Order* stated that price must be “the” primary factor, in the *Tennessee Order*, the FCC explained that if price is only “a” primary factor, the competitive bidding process may still comply with FCC rules by awarding the contract to the most cost-effective bidder. In the Tennessee case, the scoring sheets utilized by the school show that the factor specifically labeled “cost” was eligible for a total of 30 points.⁷ Notably, the maximum points awarded for “technical approach” was 45, or 15 points more than cost.⁸ Nevertheless, the FCC found that the record “reflects that the procurement process at issue here did consider price as a ‘primary factor,’ and required selection of the most cost-effective bid.”⁹

The FCC based its finding on three factors. First, Tennessee law required the school to consider, to the greatest practicable extent, cost in awarding contracts. Second, Tennessee’s request for bids indicated that the contract would be awarded to the most cost-effective bidder. Third, the record showed that price was not determinative of a cost-effective bid because the

⁵ *Request for Review by the Department of Education of the State of Tennessee of the Decision of the Universal Service Administrator*, Order, 14 FCC Rcd 13734, ¶ 8 (1999) (“*Tennessee Order*”).

⁶ *Id.* at ¶ 7.

⁷ See Attachment 4 (Excerpts of ENA Opposition).

⁸ *Id.*

school reasonably preferred one bidder's service offering over another's based on non-price factors. In this regard, the FCC stated:

a school should have the flexibility to select different levels of service, to the extent such flexibility is consistent with that school's technology plan and ability to pay for such services, but, when selecting among comparable services, a school should be guided by price in its selection. Even among bids for comparable services, however, this does not mean that the lowest bid must be selected. Price, however, should be carefully considered at this point to ensure that any considerations between price and technical excellence (or other factors) are reasonable.¹⁰

In sum, the *Tennessee Order* made it clear to E-rate participants that the "primary factor" requirement did not require a School to award the maximum number of points to the category nominally labeled "price" or "cost." Rather, the *Tennessee Order* demonstrated that so long as price is an important factor taken into account during bid selection, the process would be in compliance with the FCC's requirement that the School select the most cost-effective bid.

More than four years after the adoption of its *Tennessee Order*, and more than one year after FIRN selected Hayes as the winning bidder for the 2003-2004 school year, the FCC released its *Ysleta Order* in which it reversed the primary factor policies established in its *Tennessee Order*.¹¹ Specifically, in the *Ysleta Order*, the FCC decided to "depart from past Commission decisions to contrary" and require Schools to give price more weight than any other single factor.¹² The FCC cited to an example that if a School were to assign 10 points to reputation, 10 points to past experience and 10 points to timing considerations, the School would

⁹ *Tennessee Order* at ¶ 11 (emphasis added).

¹⁰ *Id.* at ¶ 9.

¹¹ *Request for Review of the Decision of the Universal Service Administrator by Ysleta Independent School District, El Paso, Texas, et al.*, SLD No. 31479, et al., Order, FCC 03-313 (rel. Dec. 8, 2003) ("*Ysleta Order*")

¹² *Id.* at ¶¶ 24-25.

be required to assign at least 11 points to price.¹³ This requirement is in direct contravention of the *Tennessee Order* in which the FCC determined it was permissible for a School to award 30 points to a “cost” category and 45 points to a “technical approach” category.¹⁴ In other words, in the *Ysleta Order*, the FCC established a new requirement that a separate “cost” category must be used by Schools in the competitive bidding process and that category must be given more weight than any other category.

IV. ARGUMENT

A. FIRN Used Price As The Primary Factor

The FIRN evaluation system awarded the highest number of points to the category titled Overall Project Concept, Design, and Cost (“Cost Category”). With a maximum of 35 points, this Cost Category was assigned the greatest weight.¹⁵

In denying Hayes’ Letters of Appeal, it appears that the SLD misunderstood the pricing categories by reviewing in isolation the six components that make up the Cost Category.¹⁶ While the word “cost” only appears in one of the component’s descriptions, it is clear that each component is directly related to cost. As the instructions state, evaluators were to evaluate each component in the Cost Category **as it relates to price**.¹⁷ Thus, a project design lacking any one or more of the six components in the Cost Category would not be a cost-effective solution for FIRN because the bidder would not be providing a comparable service.

Additionally, the instructions for evaluation of the bids make clear that price was the primary factor. Specifically, evaluators were instructed to “address each question **as it relates to**

¹³ *Id.* at n.138.

¹⁴ *See Tennessee Order* at ¶ 11.

¹⁵ *See Attachment 3* (Scoresheets).

¹⁶ *See Attachment 1* (SLD Decisions on Appeal).

¹⁷ *See Attachment 5* (Instructions for Evaluation).

price”.¹⁸ Similarly, evaluators were instructed to, with respect to each question on the scoresheet (not just in the Cost Category), “focus on whether or not [] the offeror is providing the best solution to the overall state.”¹⁹

At all times during the bid process, Hayes clearly understood the importance of the cost-effective/best value requirement. As explained in John Strobel’s Affidavit, Hayes’ design highlighted key differentiating factors, such as implementing less expensive technologies.²⁰ Hayes’ superior technical design translated directly into a more cost-efficient solution for FIRN.²¹

SLD has narrowly, and inaccurately, interpreted the scoresheet as considering cost in only one subcategory worth ten points. In so doing, SLD is ignoring the instructions to evaluators and the state procurement laws with which FIRN complied. When considered in context, it is clear that FIRN selected Hayes as the winning bidder using price as the primary factor.

B. The FIRN Selection Process Complied with the *Tennessee Order*

As explained above, price was “the” primary factor in FIRN’s selection process because FIRN allocated 35 points to the Cost Category. If the FCC disagrees, however, and upholds SLD’s determination that price was only accorded 10 points in FIRN’s selection process, it must still find that price was “a” primary factor. The FIRN’s competitive bidding process therefore complied with FCC’s primary price requirements established in the *Tennessee Order*.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ See Attachment 6 (Strobel Affidavit).

²¹ *Id.* Although Hayes did not receive the highest point total in the Cost Category, with respect to all factors included in the FIRN’s evaluation, Hayes received the highest total points. See Attachment 3 (Scoresheets).

Like the Tennessee case, FIRN made clear in soliciting bids that it was seeking a cost-effective solution that would provide the best value to the state. The ITN provides that “DOE is seeking a state-of-the-art, **cost-effective** solution to keep pace with the growing need of telecommunication and web services for all of Florida’s public e-rate eligible sites (schools, libraries, etc.).”²² The ITN emphasizes that the “focus” is “achieving the solution that provides the best value to the State.”²³

Also, like Tennessee’s law, Florida procurement law requires agencies to select the bidder that provides the “best value to the state.”²⁴ While Florida law does not use the term cost-effective, it is clear that “best value” is synonymous with cost-effective. When the FCC described “cost-effective,” it listed such factors as prior experience, personnel qualifications, technical excellence, and management capability.²⁵ Similarly, Florida defines “best value” to mean “the highest overall value to the state based on objective factors to include, but not limited to, price, quality, design, and workmanship.”²⁶ In its *Tennessee Order*, the FCC stated that “[p]rice cannot be properly evaluated without consideration of what is being offered,”²⁷ and Schools are free to consider “other issues relevant to cost,” including whether the price is realistic for the services sought.²⁸ This is exactly what FIRN did when it defined the subcategories that made up the Cost Category. Namely, evaluators were instructed to evaluate each of the project concept and design components as they related to price.

²² See Attachment 7 (Excerpts of ITN).

²³ *Id.*

²⁴ Fl. Stat. § 287.057(3)(b).

²⁵ *Tennessee Order* at ¶ 7.

²⁶ Fl. Stat. § 287.012(4).

²⁷ *Tennessee Order* at ¶ 8.

²⁸ *Id.* at ¶ 13.

Moreover, even if the component of Cost Category that includes “cost” in its description is considered in isolation from the rest of the Cost Category, the fact that this category was allotted 10 points and other components also were allotted 10 points is not contrary to the primary price requirements that were in effect at the time the bidding took place. Unlike the facts in the *Tennessee Order*, no other subcategory on the scoresheet was awarded a point value greater than 10. While the FCC may have recently changed the primary price requirements in its *Ysleta Order*, at the time FIRN conducted its bidding process, it was not a requirement under the E-rate rules that a component of a Cost Category with “cost” in its description be allocated more points than the components of any other categories. The *Tennessee Order* made it clear that such a requirement did not exist, and, thus, funding cannot be denied on this basis.

Finally, Hayes notes that it received the highest score on the ten-point category SLD incorrectly interprets as the only category related to price (7 of 10 points, with 6.8 points for the next highest bidder). Thus, even under SLD’s narrow interpretation of the scoresheet, Hayes’ was the winning bidder with respect to price.

C. The FCC May Not Apply the *Ysleta Order* Retroactively to FIRN’s Applications

When FIRN initiated its competitive bidding process for the 2003-2004 school year, FIRN and Hayes had no reason to believe that FIRN’s selection criteria would be examined under a price category policy different from the *Tennessee Order*. In issuing its *Ysleta Order*, the FCC repeatedly described the policy changes established in the Order as “prospective” in nature. The prospective applicability is particularly important for the primary factor requirements given that those requirements are in direct contravention to the Commission’s *Tennessee Order* that allowed funding based on bidding process where a “cost” category was weighted less than another factor.

The foundation of the E-rate program is to provide telecommunications and Internet service discounts to Schools who may not have the resources to fund such services themselves. It would be patently unfair to deny discounts to such entities based on retroactive application of new requirements that were not in effect at the time the School conducted its competitive bidding process and submitted its funding requests. Applicants like FIRN should not be expected to comply with policy changes before those changes are announced, particularly when the FCC has specifically enunciated a policy to the contrary. To do so would require Schools to expend precious resources to become “psychics” in attempting to predict new E-rate policies and rules to which they may be held accountable even though the FCC has set forth policies to the contrary. Such practices would not serve the public interest or the purposes of the E-rate program.

Importantly, the price category changes announced in the *Ysleta Order* constitute an interpretative ruling that cannot be retroactively applied to FIRN. Under federal law, an agency may not issue a decision interpreting a rule that has the effect of altering the legal consequences of past actions.²⁹ When FIRN initiated its competitive bidding process in December of 2002, the primary price requirements in effect were those established in the *Tennessee Order* that that allowed funding based on a bidding process where a “cost” category was weighted less than another factor. Therefore, the Commission cannot apply the new *Ysleta* primary price rules that require a “cost” category to be weighed more than any other factor to actions taken by FIRN that occurred more than a year prior to the issuance of the *Ysleta Order* when different requirements were in effect. To do so would constitute an impermissible change to the past legal consequences of FIRN’s past actions in contravention of federal law.

²⁹ See *Bowen v. Georgetown University Hospital*, 488 U.S. 204 (1988) (“*Georgetown Hospital*”); *Health Insurance Assn. of America v. Shalala*, 23 F.3d 412 (D.C. Cir. 1994) (“*HIAA*”).

Furthermore, courts have also established that an agency may not give retroactive effect to an interpretation of an existing rule if the parties have relied on a different, equally reasonable, interpretation of the rule, particularly where, as here, the result of such retroactive application would alter the past legal consequences of the parties' past actions, or "impose new duties with respect to transactions already completed."³⁰ An interpretation of the *Tennessee Order* as allowing a "cost" category to be weighed less than another factor in the bidding process is clearly reasonable, as evidenced by the Commission's own admission that the new primary price requirements in *Ysleta* "depart[ed] from past Commission decisions to the contrary," including the *Tennessee Order*. Moreover, requiring FIRN to comply with new primary price requirements established more than a year after it had initiated its bidding process would be an unlawful alteration of past legal consequences on past actions that impermissibly imposes new duties on FIRN with respect to past actions in violation of federal law.

D. A Waiver of Retroactive Application Is Warranted

Although Hayes believes that retroactive application of *Ysleta* to the FIRN's applications would be unlawful, to the extent necessary, Hayes respectfully requests a "waiver" of the FCC's new requirement that a price factor be weighted more heavily than any other category used in selecting a service provider in the competitive bidding process. In the *Ysleta Order*, the FCC recognized the unfairness of retroactive application of its new requirements, and granted the Schools in that proceeding a limited "waiver" of the FCC's rules to allow them to rebid the services so long as they had not already taken service from the provider for the services bid.³¹ Hayes submits that such relief is not sufficient in this case and different relief is warranted.

³⁰ *Georgetown Hospital*, 488 U.S. at 219 (Scalia, J. concurring); *Celtronix Telemetry, Inc. v. FCC*, 272 F.3d 585, 588 (D.C. Cir. 2001) ("*Celtronix*").

³¹ *Ysleta Order* at ¶¶ 73-77.

By the time FIRN received notice in late June 2003 from the SLD that its Forms 470 were denied funding, there was an inadequate amount of time for FIRN to obtain alternative services for the school year. The SLD issued its FCD Letters on June 23, 2003, a little more than two months before the school year begins. With such a short amount of time, it would be unreasonable for the FCC to expect FIRN to conduct a new competitive bidding process, sign a new bid and have service installed, tested and initiated, all before the school year began. While the FCC indicated that Schools in the *Ysleta Order* proceeded “at their own risk” in obtaining services from their selected service provider, it cannot be the case that the FCC would require Schools to forgo much-needed telecommunications services and Internet access services for the upcoming school year when left with insufficient time to find replacement services by virtue of the timing of the SLD’s decision making process. Otherwise, Schools such as FIRN would be required to place the telecommunications and Internet access needs of their students and facility on hold at the behest of the E-rate program. While Hayes understands that there is no “right” to E-rate funding, nevertheless, the purpose of the program would not be served by requiring FIRN to do without Internet access services during the 2003-2004 school year while seeking appeal of a retroactive application of a new requirement that is clearly contrary to FCC precedent. Accordingly, Hayes requests that funding be granted to FIRN to the extent requested in its Forms 470.

In sum, FIRN complied with E-rate competitive bidding rules in effect at the time the bidding was conducted by considering the cost-effectiveness of each bidder’s proposal, using price as “a,” if not “the,” primary factor, in awarding the contract to Hayes. The FCC should therefore reverse the SLD’s decision and award E-rate funding to FIRN.

V. CONTACT INFORMATION

Please direct any questions regarding this Request for Review to the following:

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VI. CONCLUSION

Because FIRN awarded the highest number of points to the Cost Category, it complied with the requirement that price be the primary factor in its selection process. Even if the FCC accepts the SLD's inaccurate characterization of the point awards, it is clear from the ITN, Instructions to Evaluators, and the scoresheets, that FIRN complied with the FCC's price as a primary factor requirement that was in effect during the time the bidding process was being conducted. Hayes understood at all times during the bidding process that price was going to be the primary factor in the selection of a service provider for FIRN Internet access services and based its bid on the most cost-effective solution for FIRN. Retroactive application of the new primary price requirements announced in the *Ysleta Order* would be unfair and unlawful and would not further the intent of the new rules or the purpose of the program.

For the foregoing reasons, the FCC should reverse the SLD's decision in its November 19, 2003 Decisions on Appeal and provide FIRN with the funding it has requested for the above-referenced applications. Because it has been almost one year since FIRN submitted its applications for this funding and because Hayes believes the funding was denied in error, Hayes respectfully requests that the FCC grant this Request for Review and provide the funds requested on an expedited basis. The Commission's prompt attention to this Request is appreciated.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Wendy M. Creeden", with a long horizontal flourish extending to the right.

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Dated: January 16, 2004

LIST OF ATTACHMENTS

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Attachment 3	-	Scoresheets
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Attachment 1

SLD Appeal Decisions



**Universal Service Administrative
Company**
Schools & Libraries Division

Administrator's Decision on Appeal - Funding Year 2003-2004

November 19, 2003

Tamar E. Finn
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Re: Florida Information Resource Network

Re: Billed Entity Number: 167435
 471 Application Number: 338600
 Funding Request Number(s): 985813
 Your Correspondence Dated: August 21, 2003

After thorough review and investigation of all relevant facts, the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC") has made its decision in regard to your appeal of SLD's Year 2003 Funding Commitment Decision for the Application Number indicated above. This letter explains the basis of SLD's decision. The date of this letter begins the 60-day time period for appealing this decision to the Federal Communications Commission ("FCC"). If your letter of appeal included more than one Application Number, please note that for each application for which an appeal is submitted, a separate letter is sent.

Funding Request Number: 985813
Decision on Appeal: **Denied in full**
Explanation:

- In your letter of appeal, you state that Hayes E-Government Resources, Inc. understood at all times during the bidding process that price was a primary factor in Florida Information Resource Network's (FIRN) selection of a service provider and they submitted a bid that presented the most cost-effective solution for FIRN. You briefly describe FIRN's bidding and evaluation process, including mention of the scoring system that awards points for various categories. You indicate that Hayes scored the highest point total in this evaluation and that they were awarded the contract on January 16, 2003.
- You state that FCC's competitive bidding requirements permit schools maximum flexibility to take service quality into account but require that price be the primary

factor in selecting a bid. You cite the Tennessee Order wherein the FCC explained that if price is only a primary factor, the competitive bidding process can still comply with FCC rules by awarding the contract to the most cost-effective bidder. Your contention is that the FCC rules do not obligate the school to award the maximum points to the category labeled price or cost, but as made clear in the Tennessee order, price should be an important factor taken into consideration during bid selection. You argue that FIRN's competitive bidding process complied with the FCC requirements that the applicant select the most cost-effective bid with price as a primary factor. To support your claim you note that the evaluation system used by FIRN awarded the highest point value to the category titled Overall Project Concept, Design and Cost ("Cost Category"). You also note that Florida State procurement law required FIRN to select the vendor that offered the "best value" to the state, which you feel is synonymous with most cost-effective. You would like the SLD to reconsider its decision to deny funding for these requests.

- During the course of PIA review FIRN was contacted and was asked to provide documentation explaining the vendor selection process. The documentation provided by FIRN included the bid evaluation score sheets. The SLD thoroughly reviewed the documentation and determined that, based on the documentation provided, it was clear that price was not the primary factor in the vendor selection process. The Overall Project Concept, Design, and Cost was given a weighting of 35 points, which was further broken down into six separate components. Only one (category #2) of these six components related in any way to price and it was assigned a maximum value of ten points. While this category did relate to price, it only related to minimizing costs, by avoiding paying for two networks, during the initial phase of the project. Since another category was also assigned a maximum value of ten points it is clear that Category 2 of Overall Project Concept, Design, and Cost was not the primary factor in the vendor selection process. No other evaluation criteria related in anyway to price. Since the overall price of the project was not a factor on the bid scoring sheets and the only evaluation criteria relating to price was not the primary factor in the vendor selection process, the SLD determined that the vendor selection process did not comply with the rules of the Schools and Libraries Support Mechanism.
- Your claim that Hayes was aware that price was a primary factor in the vendor selection process does not demonstrate that price was the primary factor in FIRN's competitive bidding process. Additionally, the instructions given to the bidders, regarding considering price when evaluating the various criteria, does not demonstrate that price was the primary factor in the vendor selection process. Consequently, it has been determined that the decision to deny this request was correct based on the documentation provided during the course of review.
- FCC regulations require that the entity selecting a service provider "carefully consider all bids submitted and may consider relevant factors other than the pre-discount prices submitted by providers."¹ In regard to these competitive bidding

¹ 47 C.F.R. § 54.511(a).

requirements, the FCC mandated that “price should be the primary factor in selecting a bid.”² When allowed under state and local procurement rules, other relevant factors an applicant may consider include “prior experience, including past performance; personnel qualifications, including technical excellence; management capability, including schedule compliance; and environmental objectives.”³ As stated by the FCC in the Tennessee Order, other factors, such as prior experience, personnel qualifications, including technical excellence, and management capability, including schedule compliance, form a reasonable basis to evaluate whether an offering is cost-effective.⁴ Recently, the Commission reaffirmed its position that schools must select the most cost-effective service offering and in making this decision, price should be the primary factor considered. See 47 C.F.R. § 54.511(a).

- The provisions of Florida Procurement Law that you cited in your appeal do not mandate that price be the primary factor. Florida Procurement Law requires that the vendor selected by means of an Invitation to Negotiate be the vendor that provides “best value.”⁵ “Best value” is defined as “the highest overall value to the state based on objective factors that include, but are not limited to, price, quality, design and workmanship.”⁶ Consequently, price is one factor and must be part of the “best value” decision, but the statute does not mandate the role price plays in making that decision. “Best value” is not, therefore, equivalent to the FCC requirement that the bid selected be the most cost-effective, with price being the primary factor.
- The Invitation to Negotiate, evaluation criteria, and related documents that you provided as part of your appeal also did not require that the most cost effective bid with price being the primary factor be selected. In regard to the Invitation to Negotiate and the evaluation criteria, Criterion B – Overall Project Concept, Design and Cost – is the only criterion that explicitly mentions cost. This criterion is worth the most number of points. As with each of the evaluation criteria, Criterion B is subdivided into 6 separate criteria, and each of these are assigned a maximum number of points. One of these sub-criterion mentions cost in the context of migrating to a new system. This sub-criterion is worth 10 points. There is no separate line item in the evaluation criteria or sub-criteria for cost. The evaluators were instructed to focus on “whether or not [] the offeror is providing the best solution to the overall state. Also, address each question as it relates to price, i.e., an offeror may go above and beyond, scoring high technically . . . but, is the higher cost worth the extra features?”

² Federal-State Joint Board on Universal Service, CC Docket No. 96-45, *Order*, 12 FCC Rcd 8776 at ¶ 481 (1997) (“*Universal Service Order*”).

³ *Id.*

⁴ Request for review by the Department of Education of the State of Tennessee, Federal-State Joint Board on Universal Service, changes to the Board of Directors of National Exchange Carrier Association, Inc., CC Docket Nos. 96-45 and 97-21, *Order*, 14 FCC Rcd. 13,734 (1999).

⁵ Fl. Stat. § 287.057(3)(b).

⁶ Fl. Stat. § 287.012(4).

- While Criterion B is worth the most number of points, cost is only one of several factors that determine the number of points to be awarded in that criterion for each bidder. Consequently, this does not satisfy the requirement that price be the primary factor. The factors in Criterion B include project concept and overall design as they relate to cost. However, because of the manner in which the criterion is structured, a proposal that, for example, cost more than the others could receive the highest score in this category if the evaluator determined that the project concept and overall design provided the "best value" notwithstanding the higher cost. Consequently, price would not have been the primary factor in determining which bid received the most points in this category because project concept and overall design would have outweighed high cost. This is a vital concern because this is an Invitation to Negotiate pursuant to which bidders propose solutions and then the parties will negotiate the contract for specific goods and services. Consequently, as a result of the manner in which this criteria is structured, Criterion B does not satisfy the requirement that price be the primary factor because price is one of several factors evaluated as part of that criteria.
- SLD recognizes that cost appears to have been a significant factor in FIRN's evaluation process. It was one of several factors that FIRN evaluated as part of Criterion B, and SLD acknowledges that you claim that it permeated all evaluation criteria because evaluators were instructed to address each question as it related to price. None of the legal provisions or documentation provided, however, quantifies the role that cost played to show that it was the primary factor in the decision as required by the FCC regulations governing the Schools and Libraries Support Mechanism.
- SLD's review of FIRN's application determined that price was not the primary factor when FIRN selected you as its service provider. You did not demonstrate in your appeal that price was the primary factor when you were selected.

If you believe there is a basis for further examination of your application, you may file an appeal with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be POSTMARKED within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use either the e-mail or fax filing options.

We thank you for your continued support, patience, and cooperation during the appeal process.

Schools and Libraries Division

Universal Service Administrative Company

cc: Jason Fudge
Florida Information Resource Network
325 West Gaines St., Suite 101
Tallahassee, FL 32399

cc: Karen H. Martinoff
Hayes E-Government Resources, Inc.
1355 Thomaswood Dr.
Tallahassee, FL 32308



**Universal Service Administrative
Company**
Schools & Libraries Division

Administrator's Decision on Appeal - Funding Year 2003-2004

November 19, 2003

Tamar E. Finn
Swidler Berlin Shereff Friedman, LLP
3000 K Street, N.W., Suite 300
Washington, DC 20007-5116

Re: Florida Information Resource Network

Re: Billed Entity Number: 167435
 471 Application Number: 352390
 Funding Request Number(s): 991115
 Your Correspondence Dated: August 21, 2003

After thorough review and investigation of all relevant facts, the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC") has made its decision in regard to your appeal of SLD's Year 2003 Funding Commitment Decision for the Application Number indicated above. This letter explains the basis of SLD's decision. The date of this letter begins the 60-day time period for appealing this decision to the Federal Communications Commission ("FCC"). If your letter of appeal included more than one Application Number, please note that for each application for which an appeal is submitted, a separate letter is sent.

Funding Request Number: 991115
Decision on Appeal: **Denied in full**
Explanation:

- In your letter of appeal, you state that Hayes E-Government Resources, Inc. understood at all times during the bidding process that price was a primary factor in Florida Information Resource Network's (FIRN) selection of a service provider and they submitted a bid that presented the most cost-effective solution for FIRN. You briefly describe FIRN's bidding and evaluation process, including mention of the scoring system that awards points for various categories. You indicate that Hayes scored the highest point total in this evaluation and that they were awarded the contract on January 16, 2003.
- You state that FCC's competitive bidding requirements permit schools maximum flexibility to take service quality into account but require that price be the primary

factor in selecting a bid. You cite the Tennessee Order wherein the FCC explained that if price is only a primary factor, the competitive bidding process can still comply with FCC rules by awarding the contract to the most cost-effective bidder. Your contention is that the FCC rules do not obligate the school to award the maximum points to the category labeled price or cost, but as made clear in the Tennessee order, price should be an important factor taken into consideration during bid selection. You argue that FIRN's competitive bidding process complied with the FCC requirements that the applicant select the most cost-effective bid with price as a primary factor. To support your claim you note that the evaluation system used by FIRN awarded the highest point value to the category titled Overall Project Concept, Design and Cost ("Cost Category"). You also note that Florida State procurement law required FIRN to select the vendor that offered the "best value" to the state, which you feel is synonymous with most cost-effective. You would like the SLD to reconsider its decision to deny funding for these requests.

- During the course of PIA review FIRN was contacted and was asked to provide documentation explaining the vendor selection process. The documentation provided by FIRN included the bid evaluation score sheets. The SLD thoroughly reviewed the documentation and determined that, based on the documentation provided, it was clear that price was not the primary factor in the vendor selection process. The Overall Project Concept, Design, and Cost was given a weighting of 35 points, which was further broken down into six separate components. Only one (category #2) of these six components related in any way to price and it was assigned a maximum value of ten points. While this category did relate to price, it only related to minimizing costs, by avoiding paying for two networks, during the initial phase of the project. Since another category was also assigned a maximum value of ten points it is clear that Category 2 of Overall Project Concept, Design, and Cost was not the primary factor in the vendor selection process. No other evaluation criteria related in anyway to price. Since the overall price of the project was not a factor on the bid scoring sheets and the only evaluation criteria relating to price was not the primary factor in the vendor selection process, the SLD determined that the vendor selection process did not comply with the rules of the Schools and Libraries Support Mechanism.
- Your claim that Hayes was aware that price was a primary factor in the vendor selection process does not demonstrate that price was the primary factor in FIRN's competitive bidding process. Additionally, the instructions given to the bidders, regarding considering price when evaluating the various criteria, does not demonstrate that price was the primary factor in the vendor selection process. Consequently, it has been determined that the decision to deny this request was correct based on the documentation provided during the course of review.
- FCC regulations require that the entity selecting a service provider "carefully consider all bids submitted and may consider relevant factors other than the pre-discount prices submitted by providers."¹ In regard to these competitive bidding

¹ 47 C.F.R. § 54.511(a).

requirements, the FCC mandated that “price should be the primary factor in selecting a bid.”² When allowed under state and local procurement rules, other relevant factors an applicant may consider include “prior experience, including past performance; personnel qualifications, including technical excellence; management capability, including schedule compliance; and environmental objectives.”³ As stated by the FCC in the Tennessee Order, other factors, such as prior experience, personnel qualifications, including technical excellence, and management capability, including schedule compliance, form a reasonable basis to evaluate whether an offering is cost-effective.⁴ Recently, the Commission reaffirmed its position that schools must select the most cost-effective service offering and in making this decision, price should be the primary factor considered. See 47 C.F.R. § 54.511(a).

- The provisions of Florida Procurement Law that you cited in your appeal do not mandate that price be the primary factor. Florida Procurement Law requires that the vendor selected by means of an Invitation to Negotiate be the vendor that provides “best value.”⁵ “Best value” is defined as “the highest overall value to the state based on objective factors that include, but are not limited to, price, quality, design and workmanship.”⁶ Consequently, price is one factor and must be part of the “best value” decision, but the statute does not mandate the role price plays in making that decision. “Best value” is not, therefore, equivalent to the FCC requirement that the bid selected be the most cost-effective, with price being the primary factor.
- The Invitation to Negotiate, evaluation criteria, and related documents that you provided as part of your appeal also did not require that the most cost effective bid with price being the primary factor be selected. In regard to the Invitation to Negotiate and the evaluation criteria, Criterion B – Overall Project Concept, Design and Cost – is the only criterion that explicitly mentions cost. This criterion is worth the most number of points. As with each of the evaluation criteria, Criterion B is subdivided into 6 separate criteria, and each of these are assigned a maximum number of points. One of these sub-criterion mentions cost in the context of migrating to a new system. This sub-criterion is worth 10 points. There is no separate line item in the evaluation criteria or sub-criteria for cost. The evaluators were instructed to focus on “whether or not [] the offeror is providing the best solution to the overall state. Also, address each question as it relates to price, i.e., an offeror may go above and beyond, scoring high technically . . . but, is the higher cost worth the extra features?”

² Federal-State Joint Board on Universal Service, CC Docket No. 96-45, *Order*, 12 FCC Rcd 8776 at ¶ 481 (1997) (“*Universal Service Order*”).

³ *Id.*

⁴ Request for review by the Department of Education of the State of Tennessee, Federal-State Joint Board on Universal Service, changes to the Board of Directors of National Exchange Carrier Association, Inc., CC Docket Nos. 96-45 and 97-21, *Order*, 14 FCC Rcd. 13,734 (1999).

⁵ Fl. Stat. § 287.057(3)(b).

⁶ Fl. Stat. § 287.012(4).

- While Criterion B is worth the most number of points, cost is only one of several factors that determine the number of points to be awarded in that criterion for each bidder. Consequently, this does not satisfy the requirement that price be the primary factor. The factors in Criterion B include project concept and overall design as they relate to cost. However, because of the manner in which the criterion is structured, a proposal that, for example, cost more than the others could receive the highest score in this category if the evaluator determined that the project concept and overall design provided the "best value" notwithstanding the higher cost. Consequently, price would not have been the primary factor in determining which bid received the most points in this category because project concept and overall design would have outweighed high cost. This is a vital concern because this is an Invitation to Negotiate pursuant to which bidders propose solutions and then the parties will negotiate the contract for specific goods and services. Consequently, as a result of the manner in which this criteria is structured, Criterion B does not satisfy the requirement that price be the primary factor because price is one of several factors evaluated as part of that criteria.
- SLD recognizes that cost appears to have been a significant factor in FIRN's evaluation process. It was one of several factors that FIRN evaluated as part of Criterion B, and SLD acknowledges that you claim that it permeated all evaluation criteria because evaluators were instructed to address each question as it related to price. None of the legal provisions or documentation provided, however, quantifies the role that cost played to show that it was the primary factor in the decision as required by the FCC regulations governing the Schools and Libraries Support Mechanism.
- SLD's review of FIRN's application determined that price was not the primary factor when FIRN selected you as its service provider. You did not demonstrate in your appeal that price was the primary factor when you were selected.

If you believe there is a basis for further examination of your application, you may file an appeal with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be POSTMARKED within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use either the e-mail or fax filing options.

We thank you for your continued support, patience, and cooperation during the appeal process.

Schools and Libraries Division

Universal Service Administrative Company

cc: Jason Fudge
Florida Information Resource Network
325 West Gaines St., Suite 101
Tallahassee, FL 32399

cc: Karen H. Martinoff
Hayes E-Government Resources, Inc.
1355 Thomaswood Dr.
Tallahassee, FL 32308



**Universal Service Administrative
Company**
Schools & Libraries Division

Administrator's Decision on Appeal - Funding Year 2003-2004

November 19, 2003

Tamar E. Finn
Swidler Berlin Shereff Friedman, LLP
3000 K Street, N.W., Suite 300
Washington, DC 20007-5116

Re: Florida Information Resource Network

Re: Billed Entity Number: 167435
 471 Application Number: 346659
 Funding Request Number(s): 990930
 Your Correspondence Dated: August 21, 2003

After thorough review and investigation of all relevant facts, the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC") has made its decision in regard to your appeal of SLD's Year 2003 Funding Commitment Decision for the Application Number indicated above. This letter explains the basis of SLD's decision. The date of this letter begins the 60-day time period for appealing this decision to the Federal Communications Commission ("FCC"). If your letter of appeal included more than one Application Number, please note that for each application for which an appeal is submitted, a separate letter is sent.

Funding Request Number: 990930
Decision on Appeal: **Denied in full**
Explanation:

- In your letter of appeal, you state that Hayes E-Government Resources, Inc. understood at all times during the bidding process that price was a primary factor in Florida Information Resource Network's (FIRN) selection of a service provider and they submitted a bid that presented the most cost-effective solution for FIRN. You briefly describe FIRN's bidding and evaluation process, including mention of the scoring system that awards points for various categories. You indicate that Hayes scored the highest point total in this evaluation and that they were awarded the contract on January 16, 2003.
- You state that FCC's competitive bidding requirements permit schools maximum flexibility to take service quality into account but require that price be the primary

factor in selecting a bid. You cite the Tennessee Order wherein the FCC explained that if price is only a primary factor, the competitive bidding process can still comply with FCC rules by awarding the contract to the most cost-effective bidder. Your contention is that the FCC rules do not obligate the school to award the maximum points to the category labeled price or cost, but as made clear in the Tennessee order, price should be an important factor taken into consideration during bid selection. You argue that FIRN's competitive bidding process complied with the FCC requirements that the applicant select the most cost-effective bid with price as a primary factor. To support your claim you note that the evaluation system used by FIRN awarded the highest point value to the category titled Overall Project Concept, Design and Cost ("Cost Category"). You also note that Florida State procurement law required FIRN to select the vendor that offered the "best value" to the state, which you feel is synonymous with most cost-effective. You would like the SLD to reconsider its decision to deny funding for these requests.

- During the course of PIA review FIRN was contacted and was asked to provide documentation explaining the vendor selection process. The documentation provided by FIRN included the bid evaluation score sheets. The SLD thoroughly reviewed the documentation and determined that, based on the documentation provided, it was clear that price was not the primary factor in the vendor selection process. The Overall Project Concept, Design, and Cost was given a weighting of 35 points, which was further broken down into six separate components. Only one (category #2) of these six components related in any way to price and it was assigned a maximum value of ten points. While this category did relate to price, it only related to minimizing costs, by avoiding paying for two networks, during the initial phase of the project. Since another category was also assigned a maximum value of ten points it is clear that Category 2 of Overall Project Concept, Design, and Cost was not the primary factor in the vendor selection process. No other evaluation criteria related in anyway to price. Since the overall price of the project was not a factor on the bid scoring sheets and the only evaluation criteria relating to price was not the primary factor in the vendor selection process, the SLD determined that the vendor selection process did not comply with the rules of the Schools and Libraries Support Mechanism.
- Your claim that Hayes was aware that price was a primary factor in the vendor selection process does not demonstrate that price was the primary factor in FIRN's competitive bidding process. Additionally, the instructions given to the bidders, regarding considering price when evaluating the various criteria, does not demonstrate that price was the primary factor in the vendor selection process. Consequently, it has been determined that the decision to deny this request was correct based on the documentation provided during the course of review.
- FCC regulations require that the entity selecting a service provider "carefully consider all bids submitted and may consider relevant factors other than the pre-discount prices submitted by providers."¹ In regard to these competitive bidding

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requirements, the FCC mandated that “price should be the primary factor in selecting a bid.”² When allowed under state and local procurement rules, other relevant factors an applicant may consider include “prior experience, including past performance; personnel qualifications, including technical excellence; management capability, including schedule compliance; and environmental objectives.”³ As stated by the FCC in the Tennessee Order, other factors, such as prior experience, personnel qualifications, including technical excellence, and management capability, including schedule compliance, form a reasonable basis to evaluate whether an offering is cost-effective.⁴ Recently, the Commission reaffirmed its position that schools must select the most cost-effective service offering and in making this decision, price should be the primary factor considered. See 47 C.F.R. § 54.511(a).

- The provisions of Florida Procurement Law that you cited in your appeal do not mandate that price be the primary factor. Florida Procurement Law requires that the vendor selected by means of an Invitation to Negotiate be the vendor that provides “best value.”⁵ “Best value” is defined as “the highest overall value to the state based on objective factors that include, but are not limited to, price, quality, design and workmanship.”⁶ Consequently, price is one factor and must be part of the “best value” decision, but the statute does not mandate the role price plays in making that decision. “Best value” is not, therefore, equivalent to the FCC requirement that the bid selected be the most cost-effective, with price being the primary factor.
- The Invitation to Negotiate, evaluation criteria, and related documents that you provided as part of your appeal also did not require that the most cost effective bid with price being the primary factor be selected. In regard to the Invitation to Negotiate and the evaluation criteria, Criterion B – Overall Project Concept, Design and Cost – is the only criterion that explicitly mentions cost. This criterion is worth the most number of points. As with each of the evaluation criteria, Criterion B is subdivided into 6 separate criteria, and each of these are assigned a maximum number of points. One of these sub-criterion mentions cost in the context of migrating to a new system. This sub-criterion is worth 10 points. There is no separate line item in the evaluation criteria or sub-criteria for cost. The evaluators were instructed to focus on “whether or not [] the offeror is providing the best solution to the overall state. Also, address each question as it relates to price, i.e., an offeror may go above and beyond, scoring high technically . . . but, is the higher cost worth the extra features?”

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³ *Id.*

⁴ Request for review by the Department of Education of the State of Tennessee, Federal-State Joint Board on Universal Service, changes to the Board of Directors of National Exchange Carrier Association, Inc., CC Docket Nos. 96-45 and 97-21, *Order*, 14 FCC Rcd. 13,734 (1999).

⁵ Fl. Stat. § 287.057(3)(b).

⁶ Fl. Stat. § 287.012(4).

- While Criterion B is worth the most number of points, cost is only one of several factors that determine the number of points to be awarded in that criterion for each bidder. Consequently, this does not satisfy the requirement that price be the primary factor. The factors in Criterion B include project concept and overall design as they relate to cost. However, because of the manner in which the criterion is structured, a proposal that, for example, cost more than the others could receive the highest score in this category if the evaluator determined that the project concept and overall design provided the “best value” notwithstanding the higher cost. Consequently, price would not have been the primary factor in determining which bid received the most points in this category because project concept and overall design would have outweighed high cost. This is a vital concern because this is an Invitation to Negotiate pursuant to which bidders propose solutions and then the parties will negotiate the contract for specific goods and services. Consequently, as a result of the manner in which this criteria is structured, Criterion B does not satisfy the requirement that price be the primary factor because price is one of several factors evaluated as part of that criteria.
- SLD recognizes that cost appears to have been a significant factor in FIRN’s evaluation process. It was one of several factors that FIRN evaluated as part of Criterion B, and SLD acknowledges that you claim that it permeated all evaluation criteria because evaluators were instructed to address each question as it related to price. None of the legal provisions or documentation provided, however, quantifies the role that cost played to show that it was the primary factor in the decision as required by the FCC regulations governing the Schools and Libraries Support Mechanism.
- SLD’s review of FIRN’s application determined that price was not the primary factor when FIRN selected you as its service provider. You did not demonstrate in your appeal that price was the primary factor when you were selected.

If you believe there is a basis for further examination of your application, you may file an appeal with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be POSTMARKED within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use either the e-mail or fax filing options.

We thank you for your continued support, patience, and cooperation during the appeal process.

Schools and Libraries Division

Universal Service Administrative Company

cc: Jason Fudge
Florida Information Resource Network
325 West Gaines St., Suite 101
Tallahassee, FL 32399

cc: Karen H. Martinoff
Hayes E-Government Resources, Inc.
1355 Thomaswood Dr.
Tallahassee, FL 32308

Attachment 2

FCD Letters



Universal Service Administrative Company
Schools & Libraries Division

FUNDING COMMITMENT DECISION LETTER

(Funding Year 2003: 07/01/2003 - 06/30/2004)

June 23, 2003

FLORIDA INFORMATION RESOURCE NETWORK
MELINDA CROWLEY
325 WEST GAINES ST., Suite 1101
TALLAHASSEE, FL 32399

Re: Form 471 Application Number: 338600
Funding Year 2003: 07/01/2003 - 06/30/2004
Billed Entity Number: 167435
Applicant's Form Identifier: FIRM-03-01

Thank you for your Funding Year 2003 E-rate application and for any assistance you provided throughout our review. Here is the current status of the funding request(s) featured in the Funding Commitment Report at the end of this letter.

- The amount, \$7,422,361.98 is "Denied".

Please refer to the Funding Commitment Report on the page following this letter for specific funding request decisions and explanations.

NEW FOR FUNDING YEAR 2003

The Important Reminders and Deadlines immediately preceding this letter are provided to assist you throughout the application process.

NEXT STEPS

- Review technology planning requirements
- Review CIPA Requirements
- File Form 486
- Invoice the SLD using the Form 474 (service providers) or Form 472 (Billed Entity)

FUNDING COMMITMENT REPORT

On the pages following this letter, we have provided a Funding Commitment Report for the Form 471 application cited above. The enclosed report includes a list of the Funding Request Number(s) (FRNs) from your application. The SLD is also sending this information to your service provider(s) so preparations can be made to begin implementing your E-rate discount(s) upon the filing of your Form 486. Immediately preceding the Funding Commitment Report, you will find a guide that defines each line of the Report.

TO APPEAL THIS DECISION:

If you wish to appeal the decision indicated in this letter, your appeal must be RECEIVED BY THE SCHOOLS AND LIBRARIES DIVISION (SLD) WITHIN 60 DAYS OF THE ABOVE DATE ON THIS LETTER. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and e-mail address (if available) for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Identify which Funding Commitment

Decision Letter (FCDL) you are appealing. Indicate the relevant funding year and the date of the FCDL. Your letter of appeal must also include the applicant name, the Form 471 Application Number, and the Billed Entity Number from the top of your letter.

3. When explaining your appeal, copy the language or text from the funding synopsis that is at the heart of your appeal, to allow the SLD to more readily understand and respond appropriately. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep copies of your correspondence and documentation.
4. Provide an authorized signature on your letter of appeal.

If you are submitting your appeal on paper, please send your appeal to: Letter of Appeal, Schools and Libraries Division, Box 125 - Correspondence Unit, 80 South Jefferson Road, Whippany, NJ 07981. Additional options for filing an appeal can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We encourage the use of either the e-mail or fax filing options to expedite filing your appeal.

While we encourage you to resolve your appeal with the SLD first, you have the option of filing an appeal directly with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be RECEIVED BY THE FCC WITHIN 60 DAYS OF THE ABOVE DATE ON THIS LETTER. Failure to meet this requirement will result in automatic dismissal of your appeal. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use either the e-mail or fax filing options because of continued substantial delays in mail delivery to the FCC. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554.

NOTICE ON RULES AND FUNDS AVAILABILITY

Applicants' receipt of funding commitments is contingent on their compliance with all statutory, regulatory, and procedural requirements of the Schools and Libraries Universal Service Support Mechanism. Applicants who have received funding commitments continue to be subject to audits and other reviews that the SLD and/or the FCC may undertake periodically to assure that funds that have been committed are being used in accordance with all such requirements. The SLD may be required to reduce or cancel funding commitments that were not issued in accordance with such requirements, whether due to action or inaction, including but not limited to that by the SLD, the applicant, or the service provider. The SLD, and other appropriate authorities (including but not limited to USAC and the FCC), may pursue enforcement actions and other means of recourse to collect erroneously disbursed funds. The timing of payment of invoices may also be affected by the availability of funds based on the amount of funds collected from contributing telecommunications companies.

Schools and Libraries Division
Universal Service Administrative Company

A GUIDE TO THE FUNDING COMMITMENT REPORT

A report for each E-rate funding request from your application is attached to this letter. We are providing the following definitions for the items in that report.

FORM 471 APPLICATION NUMBER: The unique identifier assigned to a Form 471 application by the SLD.

FUNDING REQUEST NUMBER (FRN): A Funding Request Number is assigned by the SLD to each Block 5 of your Form 471 once an application has been processed. This number is used to report to Applicants and Service Providers the status of individual discount funding requests submitted on a Form 471.

FUNDING STATUS: Each FRN will have one of the following definitions:

1. An FRN that is "Funded" will be approved at the level that the SLD determined is appropriate for that item. The funding level will generally be the level requested unless the SLD determines during the application review process that some adjustment is appropriate.
2. An FRN that is "Not Funded" is one for which no funds will be committed. The reason for the decision will be briefly explained in the "Funding Commitment Decision," and amplification of that explanation may be offered in the section, "Funding Commitment Decision Explanation." An FRN may be "Not Funded" because the request does not comply with program rules, or because the total amount of funding available for this Funding Year was insufficient to fund all requests.
3. An FRN that is "As Yet Unfunded" reflects a temporary status that is assigned to an FRN when the SLD is uncertain at the time the letter is generated whether there will be sufficient funds to make commitments for requests for Internal Connections at a particular discount level. For example, if your application included requests for discounts on both Telecommunications Services and Internal Connections, you might receive a letter with funding commitments for your Telecommunications Services funding requests and a message that your Internal Connections requests are "As Yet Unfunded." You would receive one or more subsequent letters regarding the funding decision on your Internal Connections requests.

SERVICES ORDERED: The type of service ordered from the service provider, as shown on Form 471.

SPIN (Service Provider Identification Number): A unique number assigned by the Universal Service Administrative Company to service providers seeking payment from the Universal Service Fund for participating in the universal service support mechanisms. A SPIN is also used to verify delivery of services and to arrange for payment.

SERVICE PROVIDER NAME: The legal name of the service provider.

CONTRACT NUMBER: The number of the contract between the eligible party and the service provider. This will be present only if a contract number was provided on Form 471.

BILLING ACCOUNT NUMBER: The account number that your service provider has established with you for billing purposes. This will be present only if a Billing Account Number was provided on Form 471.

EARLIEST POSSIBLE EFFECTIVE DATE OF DISCOUNT: The first possible date of service for which the SLD will reimburse service providers for the discounts for the service.

CONTRACT EXPIRATION DATE: The date the contract expires. This will be present only if a contract expiration date was provided on Form 471.

SITE IDENTIFIER: The Entity Number listed in Form 471, Block 5, Item 22a will be listed. This will appear only for "site specific" FRNs.

ANNUAL PRE-DISCOUNT AMOUNT FOR ELIGIBLE RECURRING CHARGES: Eligible monthly pre-discount amount approved for recurring charges multiplied by number of months of recurring service provided in the funding year.

ANNUAL PRE-DISCOUNT AMOUNT FOR ELIGIBLE NON-RECURRING CHARGES: Annual eligible non-recurring charges approved for the funding year.

PRE-DISCOUNT AMOUNT: Amount in Form 471, Block 5, Item 23i, as determined through the application review process.

DISCOUNT PERCENTAGE APPROVED BY THE SLD: This is the discount rate that the SLD has approved for this service.

FUNDING COMMITMENT DECISION: This represents the total amount of funding that the SLD has reserved to reimburse service providers for the approved discounts for this service for this funding year. It is important that you and the service provider both recognize that the SLD should be invoiced and the SLD may direct disbursement of discounts only for eligible, approved services actually rendered.

FUNDING COMMITMENT DECISION EXPLANATION: This entry may amplify the comments in the "Funding Commitment Decision" area.

FUNDING COMMITMENT REPORT

Form 471 Application Number: 338600
Funding Request Number: 985813 Funding Status: Not Funded
Services Ordered: Internet Access
SPIN: 143007886 Service Provider Name: Hayes E-Government Resources, Inc
Contract Number: 02-STO-ITN-003
Billing Account Number: FIRM
Earliest Possible Effective Date of Discount: 07/01/2003
Contract Expiration Date: 06/30/2008
Annual Pre-discount Amount for Eligible Recurring Charges: \$10,754,638.20
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$160,600.00
Pre-discount Amount: \$10,915,238.20
Discount Percentage Approved by the SLD: N/A
Funding Commitment Decision: \$0.00 - Bidding Violation
Funding Commitment Decision Explanation: Documentation provided demonstrates that price was not the primary factor in selecting this service provider's proposal.

IMPORTANT REMINDERS & DEADLINES

The following information is provided to assist you throughout the application process. We recommend that you keep it in an easily accessible location and that you share it with the appropriate members of your organization.

FORM 486 DEADLINE - The Form 486 must be postmarked no later than 120 days after the Service Start Date you report on the Form 486 or no later than 120 days after the date of the Funding Commitment Decision Letter, whichever is later. If you are required to have a Technology Plan, you must indicate the SLD Certified Technology Approver who approved your plan and you must retain documentation of your monitoring of the progress toward your stated goals.

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INVOICE DEADLINE - Invoices must be postmarked no later than 120 days after the last date to receive service - including extensions - or 120 days after the date of the Form 486 Notification Letter, whichever is later. Invoices should not be submitted until the invoiced products and services have been delivered and billed, and (for BEAR Forms) the provider has been paid.

OBLIGATION TO PAY NON-DISCOUNT PORTION - Applicants are required to pay the non-discount portion of the cost of the products and/or services. Service providers are required to bill applicants for the non-discount portion. The FCC has stated that requiring applicants to pay their share ensures efficiency and accountability in the program. If you are using a trade-in as part of your non-discount portion, please refer to the SLD web site.

RETAIN DOCUMENTATION - Applicants and service providers must retain documentation, including but not limited to, documents showing:

- compliance with all applicable competitive bidding requirements,
- products and/or services delivered (e.g., customer bills detailing make, model and serial number),
- resources necessary to make effective use of E-rate discounts, including the purchase of equipment such as workstations not eligible for support,
- the specific location of each item of E-rate funded equipment, and
- the applicant has paid the non-discount portion.

These documents must be retained and available for review for 5 years.

FREE SERVICES ADVISORY - Applicants and service providers are prohibited from using the Schools and Libraries Support Mechanism to subsidize the procurement of ineligible or unrequested products and services, or from participating in arrangements that have the effect of providing a discount level to applicants greater than that to which applicants are entitled.

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Universal Service Administrative Company
Schools & Libraries Division

FUNDING COMMITMENT DECISION LETTER

(Funding Year 2003: 07/01/2003 - 06/30/2004)

June 23, 2003

FLORIDA INFORMATION RESOURCE NETWORK
MELINDA CROWLEY
325 WEST GAINES ST., Suite 1101
TALLAHASSEE, FL 32399

Re: Form 471 Application Number: 352390
Funding Year 2003: 07/01/2003 - 06/30/2004
Billed Entity Number: 167435
Applicant's Form Identifier: FIRM-03-03

Thank you for your Funding Year 2003 E-rate application and for any assistance you provided throughout our review. Here is the current status of the funding request(s) featured in the Funding Commitment Report at the end of this letter.

- The amount, \$7,908.00 is "Denied".

Please refer to the Funding Commitment Report on the page following this letter for specific funding request decisions and explanations.

NEW FOR FUNDING YEAR 2003

The Important Reminders and Deadlines immediately preceding this letter are provided to assist you throughout the application process.

NEXT STEPS

- Review technology planning requirements
- Review CIPA Requirements
- File Form 486
- Invoice the SLD using the Form 474 (service providers) or Form 472 (Billed Entity)

FUNDING COMMITMENT REPORT

On the pages following this letter, we have provided a Funding Commitment Report for the Form 471 application cited above. The enclosed report includes a list of the Funding Request Number(s) (FRNs) from your application. The SLD is also sending this information to your service provider(s) so preparations can be made to begin implementing your E-rate discount(s) upon the filing of your Form 486. Immediately preceding the Funding Commitment Report, you will find a guide that defines each line of the Report.

TO APPEAL THIS DECISION:

If you wish to appeal the decision indicated in this letter, your appeal must be RECEIVED BY THE SCHOOLS AND LIBRARIES DIVISION (SLD) WITHIN 60 DAYS OF THE ABOVE DATE ON THIS LETTER. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and e-mail address (if available) for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Identify which Funding Commitment

Decision Letter (FCDL) you are appealing. Indicate the relevant funding year and the date of the FCDL. Your letter of appeal must also include the applicant name, the Form 471 Application Number, and the Billed Entity Number from the top of your letter.

3. When explaining your appeal, copy the language or text from the funding synopsis that is at the heart of your appeal, to allow the SLD to more readily understand and respond appropriately. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep copies of your correspondence and documentation.
4. Provide an authorized signature on your letter of appeal.

If you are submitting your appeal on paper, please send your appeal to: Letter of Appeal, Schools and Libraries Division, Box 125 - Correspondence Unit, 80 South Jefferson Road, Whippany, NJ 07981. Additional options for filing an appeal can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We encourage the use of either the e-mail or fax filing options to expedite filing your appeal.

While we encourage you to resolve your appeal with the SLD first, you have the option of filing an appeal directly with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be RECEIVED BY THE FCC WITHIN 60 DAYS OF THE ABOVE DATE ON THIS LETTER. Failure to meet this requirement will result in automatic dismissal of your appeal. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use either the e-mail or fax filing options because of continued substantial delays in mail delivery to the FCC. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554.

NOTICE ON RULES AND FUNDS AVAILABILITY

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Schools and Libraries Division
Universal Service Administrative Company

A GUIDE TO THE FUNDING COMMITMENT REPORT

A report for each E-rate funding request from your application is attached to this letter. We are providing the following definitions for the items in that report.

FORM 471 APPLICATION NUMBER: The unique identifier assigned to a Form 471 application by the SLD.

FUNDING REQUEST NUMBER (FRN): A Funding Request Number is assigned by the SLD to each Block 5 of your Form 471 once an application has been processed. This number is used to report to Applicants and Service Providers the status of individual discount funding requests submitted on a Form 471.

FUNDING STATUS: Each FRN will have one of the following definitions:

1. An FRN that is "Funded" will be approved at the level that the SLD determined is appropriate for that item. The funding level will generally be the level requested unless the SLD determines during the application review process that some adjustment is appropriate.
2. An FRN that is "Not Funded" is one for which no funds will be committed. The reason for the decision will be briefly explained in the "Funding Commitment Decision," and amplification of that explanation may be offered in the section, "Funding Commitment Decision Explanation." An FRN may be "Not Funded" because the request does not comply with program rules, or because the total amount of funding available for this Funding Year was insufficient to fund all requests.
3. An FRN that is "As Yet Unfunded" reflects a temporary status that is assigned to an FRN when the SLD is uncertain at the time the letter is generated whether there will be sufficient funds to make commitments for requests for Internal Connections at a particular discount level. For example, if your application included requests for discounts on both Telecommunications Services and Internal Connections, you might receive a letter with funding commitments for your Telecommunications Services funding requests and a message that your Internal Connection requests are "As Yet Unfunded." You would receive one or more subsequent letters regarding the funding decision on your Internal Connections requests.

SERVICES ORDERED: The type of service ordered from the service provider, as shown on Form 471.

SPIN (Service Provider Identification Number): A unique number assigned by the Universal Service Administrative Company to service providers seeking payment from the Universal Service Fund for participating in the universal service support mechanisms. A SPIN is also used to verify delivery of services and to arrange for payment.

SERVICE PROVIDER NAME: The legal name of the service provider.

CONTRACT NUMBER: The number of the contract between the eligible party and the service provider. This will be present only if a contract number was provided on Form 471.

BILLING ACCOUNT NUMBER: The account number that your service provider has established with you for billing purposes. This will be present only if a Billing Account Number was provided on Form 471.

EARLIEST POSSIBLE EFFECTIVE DATE OF DISCOUNT: The first possible date of service for which the SLD will reimburse service providers for the discounts for the service.

CONTRACT EXPIRATION DATE: The date the contract expires. This will be present only if a contract expiration date was provided on Form 471.

SITE IDENTIFIER: The Entity Number listed in Form 471, Block 5, Item 22a will be listed. This will appear only for "site specific" FRNs.

ANNUAL PRE-DISCOUNT AMOUNT FOR ELIGIBLE RECURRING CHARGES: Eligible monthly pre-discount amount approved for recurring charges multiplied by number of months of recurring service provided in the funding year.

ANNUAL PRE-DISCOUNT AMOUNT FOR ELIGIBLE NON-RECURRING CHARGES: Annual eligible non-recurring charges approved for the funding year.

PRE-DISCOUNT AMOUNT: Amount in Form 471, Block 5, Item 23I, as determined through the application review process.

DISCOUNT PERCENTAGE APPROVED BY THE SLD: This is the discount rate that the SLD has approved for this service.

FUNDING COMMITMENT DECISION: This represents the total amount of funding that the SLD has reserved to reimburse service providers for the approved discounts for this service for this funding year. It is important that you and the service provider both recognize that the SLD should be invoiced and the SLD may direct disbursement of discounts only for eligible, approved services actually rendered.

FUNDING COMMITMENT DECISION EXPLANATION: This entry may amplify the comments in the "Funding Commitment Decision" area.

FUNDING COMMITMENT REPORT

Form 471 Application Number: 352390
Funding Request Number: 991115 Funding Status: Not Funded
Services Ordered: Internet Access
SPIN: 143007886 Service Provider Name: Hayes E-Government Resources, I
Contract Number: 02-STO-ITN-003
Billing Account Number: FIRM
Earliest Possible Effective Date of Discount: 07/01/2003
Contract Expiration Date: 06/30/2008
Annual Pre-discount Amount for Eligible Recurring Charges: \$39,540.00
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$.00
Pre-discount Amount: \$39,540.00
Discount Percentage Approved by the SLD: N/A
Funding Commitment Decision: \$0.00 - Bidding Violation
Funding Commitment Decision Explanation: Documentation provided demonstrates that price was not the primary factor in selecting this service provider's proposal.

IMPORTANT REMINDERS & DEADLINES

The following information is provided to assist you throughout the application process. We recommend that you keep it in an easily accessible location and that you share it with the appropriate members of your organization.

FORM 486 DEADLINE - The Form 486 must be postmarked no later than 120 days after the Service Start Date you report on the Form 486 or no later than 120 days after the date of the Funding Commitment Decision Letter, whichever is later. If you are required to have a Technology Plan, you must indicate the SLD Certified Technology Approver who approved your plan and you must retain documentation of your monitoring of the progress toward your stated goals.

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INVOICE DEADLINE - Invoices must be postmarked no later than 120 days after the last date to receive service - including extensions - or 120 days after the date of the Form 486 Notification Letter, whichever is later. Invoices should not be submitted until the invoiced products and services have been delivered and billed, and (for BEAR Forms) the provider has been paid.

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RETAIN DOCUMENTATION - Applicants and service providers must retain documentation, including but not limited to, documents showing:

- compliance with all applicable competitive bidding requirements,
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Universal Service Administrative Company
Schools & Libraries Division

FUNDING COMMITMENT DECISION LETTER

(Funding Year 2003: 07/01/2003 - 06/30/2004)

June 23, 2003

FLORIDA INFORMATION RESOURCE NETWORK
MELINDA CROWLEY
325 WEST GAINES ST., Suite 1101
TALLAHASSEE, FL 32399

Re: Form 471 Application Number: 346659
Funding Year 2003: 07/01/2003 - 06/30/2004
Billed Entity Number: 167435
Applicant's Form Identifier: FIRM-03-02

Thank you for your Funding Year 2003 E-rate application and for any assistance you provided throughout our review. Here is the current status of the funding request(s) featured in the Funding Commitment Report at the end of this letter.

- The amount, \$202,601.52 is "Denied".

Please refer to the Funding Commitment Report on the page following this letter for specific funding request decisions and explanations.

NEW FOR FUNDING YEAR 2003

The Important Reminders and Deadlines immediately preceding this letter are provided to assist you throughout the application process.

NEXT STEPS

- Review technology planning requirements
- Review CIPA Requirements
- File Form 486
- Invoice the SLD using the Form 474 (service providers) or Form 472 (Billed Entity)

FUNDING COMMITMENT REPORT

On the pages following this letter, we have provided a Funding Commitment Report for the Form 471 application cited above. The enclosed report includes a list of the Funding Request Number(s) (FRNs) from your application. The SLD is also sending this information to your service provider(s) so preparations can be made to begin implementing your E-rate discount(s) upon the filing of your Form 486. Immediately preceding the Funding Commitment Report, you will find a guide that defines each line of the Report.

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If you wish to appeal the decision indicated in this letter, your appeal must be RECEIVED BY THE SCHOOLS AND LIBRARIES DIVISION (SLD) WITHIN 60 DAYS OF THE ABOVE DATE ON THIS LETTER. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

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Decision Letter (FCDL) you are appealing. Indicate the relevant funding year and the date of the FCDL. Your letter of appeal must also include the applicant name, the Form 471 Application Number, and the Billed Entity Number from the top of your letter.

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Schools and Libraries Division
Universal Service Administrative Company

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EARLIEST POSSIBLE EFFECTIVE DATE OF DISCOUNT: The first possible date of service for which the SLD will reimburse service providers for the discounts for the service.

CONTRACT EXPIRATION DATE: The date the contract expires. This will be present only if a contract expiration date was provided on Form 471.

SITE IDENTIFIER: The Entity Number listed in Form 471, Block 5, Item 22a will be listed. This will appear only for "site specific" FRNs.

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ANNUAL PRE-DISCOUNT AMOUNT FOR ELIGIBLE NON-RECURRING CHARGES: Annual eligible non-recurring charges approved for the funding year.

PRE-DISCOUNT AMOUNT: Amount in Form 471, Block 5, Item 23I, as determined through the application review process.

DISCOUNT PERCENTAGE APPROVED BY THE SLD: This is the discount rate that the SLD has approved for this service.

FUNDING COMMITMENT DECISION: This represents the total amount of funding that the SLD has reserved to reimburse service providers for the approved discounts for this service for this funding year. It is important that you and the service provider both recognize that the SLD should be invoiced and the SLD may direct disbursement of discounts only for eligible, approved services actually rendered.

FUNDING COMMITMENT DECISION EXPLANATION: This entry may amplify the comments in the "Funding Commitment Decision" area.

FUNDING COMMITMENT REPORT

Form 471 Application Number: 346659
Funding Request Number: 990930 Funding Status: Not Funded
Services Ordered: Internet Access
SPIN: 143007886 Service Provider Name: Hayes E-Government Resources, :
Contract Number: 02-STO-ITN-003
Billing Account Number: FIRM
Earliest Possible Effective Date of Discount: 07/01/2003
Contract Expiration Date: 06/30/2008
Annual Pre-discount Amount for Eligible Recurring Charges: \$306,972.00
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$.00
Pre-discount Amount: \$306,972.00
Discount Percentage Approved by the SLD: N/A
Funding Commitment Decision: \$0.00 - Bidding Violation
Funding Commitment Decision Explanation: Documentation provided demonstrates that price was not the primary factor in selecting this service provider's proposal.

IMPORTANT REMINDERS & DEADLINES

The following information is provided to assist you throughout the application process. We recommend that you keep it in an easily accessible location and that you share it with the appropriate members of your organization.

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- the specific location of each item of E-rate funded equipment, and
- the applicant has paid the non-discount portion.

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Attachment 3

Scoresheets

Evaluation		ITC Deltacom								Hayes								Fijitsu								AT&T								
		Reviewer #1	Reviewer #2	Reviewer #3	Reviewer #4	Reviewer #5	Reviewer #6	Reviewer #7	Average*	Reviewer #1	Reviewer #2	Reviewer #3	Reviewer #4	Reviewer #5	Reviewer #6	Reviewer #7	Average*	Reviewer #1	Reviewer #2	Reviewer #3	Reviewer #4	Reviewer #5	Reviewer #6	Reviewer #7	Average*	Reviewer #1	Reviewer #2	Reviewer #3	Reviewer #4	Reviewer #5	Reviewer #6	Reviewer #7	Average*	
A Goals and Projected Outcomes – 10 Total Points																																		
1	A well-developed, detailed work plan that meets each of the services as described under Section 1.12, TAB A. The plan should identify 8 service items listed with demonstration of understanding and appropriate business processes. The goals of the technical environment should be identified. Points (0-5)	5	2	1	0	2	1	2	1.6	5	4	4	5	5	4	3	4.2	5	4	4	5	5	5	5	4.6	5	4	4	5	4	4	4	4.4	
2	The proposal should identify and describe how the following services are met: 1. Leveraging of in-place legacy systems; 2. Open systems standards compatibility; and 3. Facilitation of a phased approach to implementation. Points (0-3)		1	1	1	0	1	1	0.6		3	3		2	2	2	1.6		2			3	2	2	3	2.4		2	2		2	2	2	2.0
3	The Proposal should list or provide a schematic diagram of the platform systems, topologies, protocols, and other technical details required in implementing the services. Points (0-2)																																	
Totals:		4.2								8.4								9.0								7.8								

B Overall Project Concept, Design and Cost – 35 Total Points																																									
1	The proposal defines and details support requirements of 24/7/365 for the NOC, 16/7/365 for Help Desk , e-mail database support and security against hackers, viruses and other threats. Points (0-10)	7	6	6	4	5	8	5	6	9	8	8	9	8	8	8	8	10	9	9	8	9	6	9	7	9	8	9	8	9	8	9									
2	The proposal indicates how it would maximize existing SUNCOM infrastructure in the network design. An important part of the migration is to minimize costs; avoiding paying for two networks during the initial phase. Does the proposal define a strategy to minimize duplicity of service costs before cutting over to the new design and does it identify bundled access components. Points (0-10)	5	6	2	2	4	4	2	7	9	7	8	5	8	7	5	6	9	9	6	5	9	5	8	4	3	10	2	5	7	12	12									
3	The proposal defines specific operational reporting plans, including security on the network. Points (0-5)	4	4	5	2	2	2	2	4	3	2	4	4	4	8	6	2	5	4	4	5	4	8	5	4	5	5	5	4	16	16	16									
4	The proposal should give evidence of a quality design (through a schematic diagram of the platforms, systems, topologies, protocols, and other technical details required in implementing the services). Points (0-5)	4	4	2	2	1	6	4	3	4	4	4	3	8	4	4	5	5	5	5	5	8	4	4	5	3	4	10	10	10	10										
5	The proposal defines a plan to provide email services to teachers and students. Points (0-3)	0	0	0	1	0	0	2	3	3	3	3	2	3	10	2	3	3	2	3	3	8	3	3	3	3	3	3	3	3	3	3									
6	The proposal defines a plan to provide management and user support for all Internet access including local dial access and 800 number dialup services Points (0-2)	2	1	2	1	1	1	2	1	2	2	2	2	2	2	2	1	2	1	2	2	2	1	2	2	2	2	2	2	2	2	2									
Totals:		16.8															27.8										28.8										26.2				

C Performance & Measurement Methods – 20 Total Points																																																			
1	The proposal should have performance indicators outlined with associated methodologies to measure the success of the program as well as meeting deadlines. Points (0-5)	2	2	2	3	3	2	1	1	1	4	4	4	5	5	5	4	4	3	4	3	3	5	4	4	3	3	2	1	3	4	5																			
2	The proposal should have specific reporting elements defined that will help the STOD/GE to make future projections of customer capacity utilization needs. Points (0-5)	2	2	3	4	3	2	2	2	2	4	4	4	5	5	4	5	4	5	3	5	3	5	5	5	5	5	5	4	5	5	4	5	5																	
3	The proposal should have web-access with real-time view of all network components between all sites in support of STOD/GE tracking quality of service to customers. Points (0-5)	2	5			3	1	1	2	4	4	4	5	5	5	3	5	4	8	3	3	3	3	2	4	5	2	1	5	5	3	3	5	4																	
4	The proposal should clearly defined all written reports that will be submitted to the STOD/GE that define the quality of service being delivered and for compliance with service level agreements. Points (0-5)	0	0	1	1		1	1	0	8	3	2	4	4	3	4	4	3	8	5	4	3	5	4	4	4	4	2	3	4	4	5	4	5	4																
Totals:												7.2										17.2										15.6										15.8									

D Quals of Staff & Tech Expertise – 5 Total Pts		Reviewer #1	Reviewer #2	Reviewer #3	Reviewer #4	Reviewer #5	Reviewer #6	Reviewer #7	Average*	Reviewer #1	Reviewer #2	Reviewer #3	Reviewer #4	Reviewer #5	Reviewer #6	Reviewer #7	Average*	Reviewer #1	Reviewer #2	Reviewer #3	Reviewer #4	Reviewer #5	Reviewer #6	Reviewer #7	Average*
1	The proposal should allow an evaluation of the quality of the personnel (should including relevant information and technical expertise of key staff whom will be assigned to the project) Please see section 1.12, Tab B, Personnel Points (0-5)	5	4	4	5	3	3	3	3.6	5	4	5	5	5	5	5	4.8	5	4	4	4	3	5	4	4.2
Totals:									3.6								4.8								3.6

E Congruency of Project – 5 Total Points		Reviewer #1	Reviewer #2	Reviewer #3	Reviewer #4	Reviewer #5	Reviewer #6	Reviewer #7	Average*	Reviewer #1	Reviewer #2	Reviewer #3	Reviewer #4	Reviewer #5	Reviewer #6	Reviewer #7	Average*	Reviewer #1	Reviewer #2	Reviewer #3	Reviewer #4	Reviewer #5	Reviewer #6	Reviewer #7	Average*
1	The proposal should identify strategies that will be utilized to identify a phased approach to meeting a migration plan with time lines. Specifically a plan to migrate the network on June 30, 2002 to bundled Internet access on July 1, 2003. Points (0-5)	2	1	3	3	1	2	2	2.0	4	5	5	5	5	5	5	4.8	3	4	3	4	5	5	5	3.8
Totals:									2.0								4.8								3.8

F Collaborative Efforts – 5 Total Points		Reviewer #1	Reviewer #2	Reviewer #3	Reviewer #4	Reviewer #5	Reviewer #6	Reviewer #7	Average*	Reviewer #1	Reviewer #2	Reviewer #3	Reviewer #4	Reviewer #5	Reviewer #6	Reviewer #7	Average*	Reviewer #1	Reviewer #2	Reviewer #3	Reviewer #4	Reviewer #5	Reviewer #6	Reviewer #7	Average*
1	The proposal should have methodologies to identify cooperative partnerships for state-wide network continuity and interoperability. Points (0-5)	2	1	4	3	3	2	2	2.6	4	5	5	4	4	4	4	4.4	3	3	3	3	4	3	3	3.2
Totals:									2.6								4.4								3.2

G Corporate Experience – 10 Total Points		Reviewer #1	Reviewer #2	Reviewer #3	Reviewer #4	Reviewer #5	Reviewer #6	Reviewer #7	Average*	Reviewer #1	Reviewer #2	Reviewer #3	Reviewer #4	Reviewer #5	Reviewer #6	Reviewer #7	Average*	Reviewer #1	Reviewer #2	Reviewer #3	Reviewer #4	Reviewer #5	Reviewer #6	Reviewer #7	Average*
1	The proposal should provide detail descriptions of other projects where design, implementation and managing similar projects for state government. Points (0-5)	6	6	6	4	4	4	4	5.2	4	4	5	4	3	4	4	4.4	5	4	4	3	3	3	3	4.3
2	The proposal should provide detailed information about subcontractors who are part of the proposal & have demonstrated managing similar projects for State government. Points (0-5)	0	0	0	0	0	0	0	0.0	4	4	1	3	3	5	5	3.8	4	4	4	3	4	0	0	3.8
Note: If subcontractors are not used in the proposal the point value awarded in part 7) a shall be doubled.									5.2								6.8								7.2
Totals:									5.2								6.8								8.8

H Florida Certified Minority Business - 10 Total Points		Reviewer #1	Reviewer #2	Reviewer #3	Reviewer #4	Reviewer #5	Reviewer #6	Reviewer #7	Average*	Reviewer #1	Reviewer #2	Reviewer #3	Reviewer #4	Reviewer #5	Reviewer #6	Reviewer #7	Average*	Reviewer #1	Reviewer #2	Reviewer #3	Reviewer #4	Reviewer #5	Reviewer #6	Reviewer #7	Average*
1	Minority Contribution, Points (0-10)	3	0	0	0	0	0	0	0.0	10	10	10	10	10	10	10	9.4	3	3	3	3	3	3	3	3.0
Totals:									0								9.4								3.0

a) Minority business is the prime and manages the overall solution

b) Minority business is the prime and does not manage the overall solution but remains the prime point of contact. (7 points)

c) Non-minority business that is the prime and manages the overall solution but has subcontractors that are minorities that contribute more than 50% of the solution (5 points)

d) Non-minority business that is the prime and manages the overall solution but has subcontractors that are minorities that contribute less than 50% of the solution (3 points)

e) Non-minority business that is the prime and manages the overall solution but has no minority subcontractor yet has a quality diversity program (3 points)

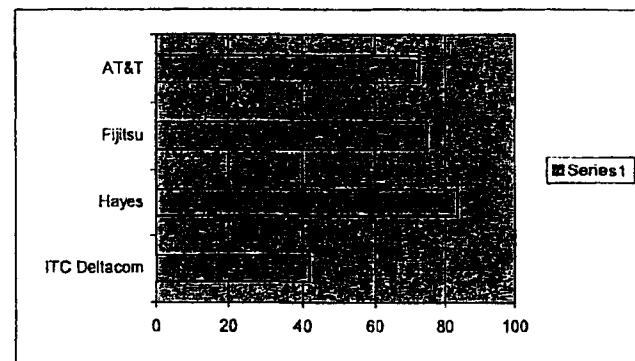
f) Non-minority business that is the prime and manages the overall solution but has no minority subcontractors (0 points)

Answer Comments:

*In an effort to keep the average scores as fair as possible, the highest and lowest scores for each question will be omitted. This will leave a remainder of 5 total scores to average.

		Possible Pts	Pts Gained	Total
ITC Dellacom				
A	Goals and Projected Outcomes (10 Total Pts)	10	4.2	41.6
B	Overall Project Concept, Design and Cost (35 Total Pts)	35	16.8	
C	Performance & Measurement Methods (20 Total Pts)	20	7.2	
D	Quals of Staff & Tech Expertise (5 Total Pts)	5	3.6	
E	Congruency of Project (5 Total Pts)	5	2	
F	Collaborative Efforts (5 Total Pts)	5	2.6	
G	Corporate Experience (10 Total Pts)	10	5.2	
H	Florida Certified Minority Business (10 Total Pts)	10	0	
		Possible Pts	Pts Gained	Total
Hayes				
A	Goals and Projected Outcomes (10 Total Pts)	10	8.4	83.6
B	Overall Project Concept, Design and Cost (35 Total Pts)	35	27.8	
C	Performance & Measurement Methods (20 Total Pts)	20	17.2	
D	Quals of Staff & Tech Expertise (5 Total Pts)	5	4.8	
E	Congruency of Project (5 Total Pts)	5	4.8	
F	Collaborative Efforts (5 Total Pts)	5	4.4	
G	Corporate Experience (10 Total Pts)	10	6.8	
H	Florida Certified Minority Business (10 Total Pts)	10	9.4	
		Possible Pts	Pts Gained	Total
Fijitsu				
A	Goals and Projected Outcomes (10 Total Pts)	10	9	74.8
B	Overall Project Concept, Design and Cost (35 Total Pts)	35	28.8	
C	Performance & Measurement Methods (20 Total Pts)	20	15.8	
D	Quals of Staff & Tech Expertise (5 Total Pts)	5	4.2	
E	Congruency of Project (5 Total Pts)	5	3.8	
F	Collaborative Efforts (5 Total Pts)	5	3.2	
G	Corporate Experience (10 Total Pts)	10	7.2	
H	Florida Certified Minority Business (10 Total Pts)	10	3	
		Possible Pts	Pts Gained	Total
AT&T				
A	Goals and Projected Outcomes (10 Total Pts)	10	7.8	72.4
B	Overall Project Concept, Design and Cost (35 Total Pts)	35	26.2	
C	Performance & Measurement Methods (20 Total Pts)	20	15.8	
D	Quals of Staff & Tech Expertise (5 Total Pts)	5	3.6	
E	Congruency of Project (5 Total Pts)	5	4	
F	Collaborative Efforts (5 Total Pts)	5	3.2	
G	Corporate Experience (10 Total Pts)	10	8.8	
H	Florida Certified Minority Business (10 Total Pts)	10	3	

Vendor	Score	Rank
ITC Dellacom	41.6	4
Hayes	83.6	1
Fijitsu	74.8	2
AT&T	72.4	3



Attachment 4

Excerpts of ENA Opposition

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED

APR 13 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

DOCKET FILE COPY ORIGINAL

In the Matter of

Request for Review In Part
of Fund Administrator's Explanation
of Funding Commitment Decision
By Integrated Systems and
Internet Solutions, Inc.

CC Docket No. 96-45

CC Docket No. 97-21

Application No. 18132

To: Common Carrier Bureau

**OPPOSITION OF
EDUCATION NETWORKS OF AMERICA**

Education Networks of America ("ENA"), by its attorneys and pursuant to Sections 1.45 and 54.721 of the Commission's Rules,¹ respectfully submits this Opposition to the Request for Review ("Request") filed by ISIS 2000 regarding the State of Tennessee's above-captioned application. In its Request appealing the decision of the Administrator of the Schools and Libraries Division of the Universal Service Administrative Company (the "Administrator"), ISIS 2000 persists in its distortion of the law and facts in seeking reversal of the Administrator's decision confirming the award of the Tennessee contract to ENA.²

¹ 47 C.F.R. § 1.45; 47 C.F.R. § 54.721(d). To the extent necessary, ENA has filed contemporaneously in the above-captioned docket an Alternative Motion For Leave to File given the potential ambiguity in the Commission's rules concerning the Opposition due date.

² See Request for Review in Part of Fund Administrator's Explanation of Funding Commitment Decisions, CC Docket No. 96-45, CC Docket No. 97-21, Integrated Systems and Internet Solutions, Inc. (filed Mar. 29, 1999) ("ISIS 2000 Request").

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List ABCDE

6 EVALUATION AND CONTRACT AWARD

6.1 Proposal Evaluation Categories and Weights

The categories that shall be considered in the evaluation of proposals are Qualifications, Experience, Technical Approach, and Cost. Each category shall be weighted as follows, and one hundred (100) points is the maximum total number of points which may be awarded to a proposal:

Maximum Points Awarded for Proposer Qualifications:	10
Maximum Points Awarded for Proposer Experience:	15
Maximum Points Awarded for Technical Approach:	45
Maximum Points Awarded for Cost Proposal:	30

6.2 Proposal Evaluation Process

- 6.2.1 The evaluation process is designed to award the procurement not necessarily to the Proposer of least cost, but rather to the Proposer with the best combination of attributes based upon the evaluation criteria.
- 6.2.2 The RFP Coordinator shall manage the proposal evaluation process and maintain proposal evaluation records. A Proposal Evaluation Team made up of three or more State employees shall be responsible for evaluating proposals.
- 6.2.3 All proposals shall be reviewed by the RFP Coordinator to determine compliance with mandatory proposal requirements as specified in this RFP. If the RFP Coordinator determines that a proposal may be missing one or more such requirements, the Proposal Evaluation Team shall review the proposal to determine if it meets minimal requirements for further evaluation; if the State shall request clarification(s) or correction(s); or, if the State shall determine the proposal non-responsive and reject it. (See Attachment 9.3, Proposal Requirements Checklist).
- 6.2.4 The Proposal Evaluation Team shall evaluate proposals determined to have met proposal requirements based upon the criteria set forth in this RFP. Each evaluator shall score each proposal. The evaluation scoring shall use the pre-established evaluation criteria and weights set out in this RFP. Each evaluator shall use only whole numbers for scoring proposals. (See Attachment 9.4, Technical Proposal Evaluation Format).
- 6.2.5 The State reserves the right, at its sole discretion, to request clarifications of proposals or to conduct discussions for the purpose of clarification with any or all Proposers. The purpose of any such discussions shall be to ensure full understanding of the proposal. Discussions shall be limited to specific sections of the proposal identified by the State and, if held, shall be after initial evaluation of Technical Proposals. If clarifications are made as a result of such discussion, the Proposer shall put such clarifications in writing. If clarifications are requested and written after the Proposal Evaluation Team has scored a subject Proposal, the evaluators may re-score the clarified Technical Proposals.
- 6.2.6 Upon completion of Technical Proposal scoring by the Proposal Evaluation Team, the RFP Coordinator shall calculate the average Technical Proposal score for each proposal.
- 6.2.7 After opening the Cost Proposals, the RFP Coordinator shall calculate scores for each Cost Proposal. (See Attachment 9.5, Cost Proposal Evaluation Format).

The Cost Evaluation scores shall be based on the amount indicated in the Cost Proposal for State and Local funds combined with FCC E-Rate funds paid to the proposer. State and Local funds may be augmented by Other Funding specified and offered by proposer and by any Savings generated from State and Local funds. These amounts shall be used in the following formula to determine the Cost Factor

toward calculating the points a Proposer shall receive for the Cost Proposal:

Total State & Local Other Funds, Savings and FCC funds paid to proposer, divided by Total State and Local Funds, excludes Savings, FCC, Other Funds equals the Cost Factor of Proposal Being Evaluated.

Proposal with the Highest Cost Factor is awarded 30 points for Cost Proposal.

This factor can be improved by decreasing "Total State and Local funds", or increasing "Total State, Local, Other Funding, Savings and associated FCC funds paid to proposer" or accomplishing both. Under no circumstance can the Total State and Local funds exceed amount specified in Cost Proposal Format. Under every circumstance the Proposer's total submitted costs to the FCC will be discounted 60%, which has been changed to 66% in the RFP 97-2 Amended as the state specified aggregate percentage.

Every other proposal is awarded points based on the following ratio: Factor of Proposal Being Evaluated divided by Highest Cost Factor. Then the ratio is multiplied by the Maximum Cost Points:

Cost Factor of Proposal Being Evaluated divided by Highest Cost Factor multiplied by Maximum Cost Points equals Points for Proposal Being Evaluated

Example:

Proposal # 1: Combined State, Local & FCC = \$12,500,000. State and Local total is \$5,000,000. Cost Factor = $\$12,500,000 / \$5,000,000 = 2.5$.

Proposal # 2: Combined State, Local, Other and Savings = \$13,125,000. State and Local is \$4,750,000. Cost Factor = $\$13,125,000 / \$4,750,000 = 2.763$. This is determined to be the Highest Cost Factor.

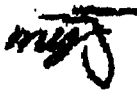
Highest Cost Factor of 2.763 for Proposal # 2 is awarded 30 points. Proposal # 1 is awarded points by the ratio of $2.5 / 2.763 = .905$. This ratio multiplied by the Maximum Cost Points equals 27.14 Cost Points.

- 6.2.8 The RFP Coordinator shall combine the average Technical Evaluation scores with the Cost Evaluation scores for each Proposer. (See Attachment 9.6, Proposal Score Summary Matrix).
- 6.2.9 All proposal evaluation calculations shall result in numbers rounded to the nearest three decimal places (e.g., 9.999).
- 6.3 Contract Award
 - 6.3.1 The RFP Coordinator shall forward results from the proposal evaluation process to the head of the procuring agency for a contract award decision. Contract award decisions shall be subject to the approval of appropriate State officials in accordance with applicable State laws and regulations.
 - 6.3.2 The State reserves the right to make an award without further discussion of any proposal submitted. There shall be no best and final offer procedure. Therefore, each proposal should be initially submitted on the most favorable terms the vendor can offer.
 - 6.3.3 After the evaluation of proposals and contract award decision, the head of the procuring agency shall issue a written *Notice of Intent to Award* to all evaluated Proposers. The notice shall identify the proposal selected for award. However, any *Notice of Intent to Award* shall not create rights or interests in any vendor.
 - 6.3.4 Upon release of a written *Notice of Intent to Award* the RFP files shall be made available for public inspection.

- 6.3.5 The State reserves the right, at its sole discretion, to further clarify or negotiate with the best evaluated Proposer subsequent to *Notice of Intent to Award*.
- 6.3.6 The apparently successful Proposer shall be expected to enter into a contract with the State which shall be substantially the same as the *pro forma* contract included in Section Eight of this RFP. However, the State reserves the right to add terms and conditions, deemed to be in the best interest of the State, during contract negotiations. Any such terms and conditions shall be within the scope of the RFP and shall not affect the proposal evaluations.
- 6.3.7 If the selected Proposer fails to sign and return the contract drawn pursuant to this RFP within fourteen (14) days of its delivery to the Proposer, the State may determine, at its sole discretion, that the Proposer has failed to enter into a contract with the State in accordance with the terms of this RFP, and the State may open negotiations with the next best evaluated Proposer.

Attachment 5

Instructions for Evaluation



State Technology Office

Instructions for Evaluation

The Evaluation will cover the following topics:

- PART A, Goals and Projected Outcomes
- PART B, Overall Project Concept, Design and Cost
- PART C, Performance & Measurement Methods
- PART D, Qualifications of Staff & Technical Expertise
- PART E, Congruency of Project
- PART F, Collaborative Efforts
- PART G, Corporate Experience
- PART H, Florida Certified Minority Business

Informational Aid (additional resources that may help assist in the evaluation)

The literature presented is merely for reference in coordination with the evaluation process.

- 1.) The ITN (Invitation to Negotiate) is constructed on behalf of the State Technology Office. It details the Instructions for the proposals, the technical requirements and the general conditions.
- 2.) The Questions & Answers were posted on Thursday, November 21, 2002. It demonstrates the questions submitted in clarifying the offeror's needs to access a best solution format for their proposals.
- 3.) For further details and questions contact Jon at jon.yeaton@myflorida.com or 922-0509.

Evaluation Forms

The evaluation forms consist of 3 pages that contain 5 specific sections that build the assessment criteria. On a final point scale of 100 possible points, each section allocates a portion of possible points to be awarded. Each question denotes in bold the scale of allotted points for that particular inquiry. The lowest number indicating a poor standing and the highest number indicates a strong favorable standing. A total of 7 evaluators will assess the final responsive bids in determining in all fairness the best solution. After dismissing the high and low score for each question, the 5 remaining points will be tallied and averaged for a final question score. The sum of the averages will determine the offeror's final score of the evaluation.

In evaluating the offeror's solutions, each evaluator will be assigned as a specific Reviewer (Reviewer #1 to #7). Please score **ONLY** in the box that indicates the Reviewer number that was assigned. This insures that the scores are easily transferable to a master calculation sheet. In addition, all evaluation worksheets must be signed and dated to verify that as an evaluator, you scored to the best of your ability in all fairness. Please make sure scores are legible. No level of communication about the evaluation can occur among the reviewers during the course of the scoring. This is a safeguard that prevents any type of hesitant dispositions.

Points to consider (helpful points to cover when evaluating questions):

1. It's important to familiarize yourself with the ITN solicitation to better assess the required needs of the state.
2. Please keep in mind, that when scoring each question to remain focus on whether or not that the offeror is providing the best solution to the overall state. Also, address each question as it relates to price, i.e. an offeror may go above and beyond, scoring high technically...but, is the higher cost worth the extra features?
3. As an evaluator, you are considered as experts in this particular field. This helps the process of evaluating not just by analyzing the information presented by the offeror, but to use your past experience, gut feelings and expertise to come to a final conclusion as long as each is justifiable and explainable in your reasoning.

Attachment 6

Strobel Affidavit

State of Florida)
)
Leon County)

AFFIDAVIT OF JOHN STROBEL

Before me, this day personally appeared John Strobel who, after first being duly sworn, deposes and says:

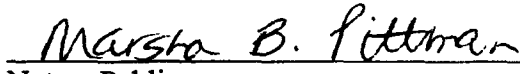
1. I, John Strobel, am employed by Hayes E-Government Resources, Inc. as the Director of Sales.
2. I had extensive involvement in the development of the Hayes' bid response to the Invitation to Negotiate Bundled Internet Access Services for the State of Florida.
3. Hayes understood the bid process to be based on lowest overall cost and therefore representative of the best value to the State.
4. Hayes has 17 years of experience in providing contractual services to the State and local governments and bases all pricing methodologies on providing a higher level of service for a lower price than its competitors.
5. During the development of the response to the bid, Hayes was able to achieve additional cost savings due to design characteristics. The overall design took into consideration factors including the current network topology and used the most cost-effective solution available. The result of this design provides the State the opportunity to add additional services at the absolute least price as well as being able to incorporate emerging technologies as they become even more cost efficient.
6. The cost-effectiveness of the proposal was further demonstrated by the integration of existing state-owned equipment and facilities thereby negating the need for additional capital for hardware and software resources.
7. No competitors protested the award of the contract to Hayes.

FURTHER AFFIANT SAYETH NOT.



John Strobel

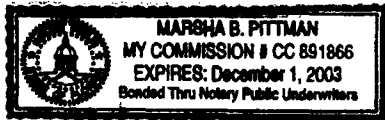
Sworn to and subscribed before me this 20th day of August, 2003 by John Strobel who is personally known or who produced _____ as identification.



Notary Public

(SEAL)

My Commission Expires December 1, 2003



Attachment 7

Excerpts of ITN

**State of Florida
State Technology Office**



INVITATION TO NEGOTIATE

Bundled Internet Access Services

NO. 02-STO-ITN-003

Sealed Replies are due by:
December 2, 2002 at 2:00 PM EST

Refer ALL Inquiries to:

Christie Hutchinson
Purchasing Director
State Technology Office
4030 Esplanade Way, Suite 280N
Tallahassee, Florida 32399-0950
Christie.hutchinson@myflorida.com
(850) 922-2756
(850) 413-8623 (facsimile)

employees that support the Network Operations Center, billing and the help desk of FIRN.

The current FIRN network is composed of 5 Internet gateway routers located in Miami, Orlando, Pensacola, Tampa and Tallahassee. There are 10 distribution routers located in Daytona Beach, Ft. Myers, Gainesville, Jacksonville, Miami, Orlando, Panama City, Pensacola, Tampa and Tallahassee. All of the gateway and distribution routers are connected using ATM connections from the State of Florida. Approximately 150 end nodes are connected to this infrastructure using dedicated circuits, frame relay and ATM connections.

Content Filtering and caching servers are located at each gateway node. The content filtering being offered to FIRN customers is under a previously negotiated Contract. There are approximately 50 dial-up hubs supporting 1,183 dial-up lines scattered throughout the State providing daily Internet connectivity to teachers and students around the State. A Network Operations Center is located in Tallahassee where the network is presently being monitored. Additional servers are located in the DOE providing common services to the end users.

- 2.04 Purpose:** The purpose of this Invitation to Negotiate is to seek replies that address DOE's need to outsource Internet and related telecommunication service (i.e. direct connection, local dial-up connections, and 800 dial-up connections to the Internet) for all of the public e-rate eligible sites in the State of Florida. DOE is seeking a state-of-the-art, cost-effective solution to keep pace with the growing need of telecommunication and web services for all Florida's public e-rate eligible sites (schools, libraries,...).

This Contract length will be through June 30, 2005. The STO has the option to renew the Contract for two (2) additional one (1) year increments.

DOE envisions a multi-phase project implementation. The initial transition phase will conclude on June 30, 2003 and consist of the following:

- Migrate to the new services and retire existing equipment and circuits; and transfer of FIRN network related staff to outsource provider;
- Maintaining existing level of service during transfer including but not limited to agreed upon Service Level Agreements; and
- Increasing the level of customer satisfaction on all Internet access during transition period.

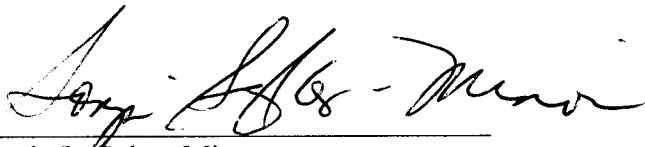
The second phase to include the following:

- Provide an ongoing design review to ensure and enhance the quality of service to the STO and DOE customers.
- Improve the quality of services addressing any problem areas.

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of January, 2004, copies of the foregoing
REQUEST FOR REVIEW OF DECISIONS OF THE UNIVERSAL SERVICE
ADMINISTRATOR BY HAYES E-GOVERNMENT RESOURCES, INC.; SLD Nos. 338600,
352390, 346659, in Docket 02-6, were served via Federal Express to the following:

Universal Service Administrative Company
Schools & Libraries Division
80 South Jefferson Road
Whippany, New Jersey 07981



Sonja L. Sykes-Minor